

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast Service)

MM Docket No. 87-268

To: The Commission

PETITION FOR RECONSIDERATION

WMTW Holdings, Inc. ("Holdings"), licensee of WMTW-TV, Channel 8 (DTV Channel 46), Poland Spring, Maine ("WMTW" or the "Station"), by its attorneys and pursuant to Section 1.106 of the Rules, hereby requests reconsideration of the Sixth Report and Order in the above-captioned proceeding, FCC 97-115 (released April 21, 1997), to the limited extent that the April 3, 1997 NTSC database (see Sixth Report and Order at ¶ 33) that was used to generate the DTV Table of Allotments did not incorporate the proposed modification of WMTW's facilities. Alternatively, Holdings requests modification of the DTV Table of Allotments to designate alternative geographical coordinates, on file with the Commission and specified below, for the location of WMTW's DTV facilities.

I. BACKGROUND

On April 22, 1996, Holdings filed a minor change application in which it proposed to relocate WMTW's transmitter from its current site atop Mount

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Washington, New Hampshire, to a site nearer the Station's community of license and the greater Portland, Maine, metropolitan area. See File No. BPCT-960422KE. Holdings' application, which is unopposed, was timely filed three months in advance of the July 25, 1996 release of the Sixth Further Notice of Proposed Rulemaking (FCC 96-317) in this proceeding. The DTV Table of Allotments, however, does not take WMTW's proposed relocation into account. Specifically, the DTV Table employs the coordinates of WMTW's current site atop Mount Washington at North Latitude 44°-16'-13" and West Longitude 71°-18'-13". However, as of April 3, 1997, Holdings had pending an application to relocate the Station's facilities to a site atop Bald Pate Mountain, at North Latitude 43°-57'-54" and West Longitude 70°-42'-23". 1/ Recently, on June 5, 1997, owing to the failure of negotiations to produce a definitive use agreement at the Bald Pate site, Holdings had to amend its application to specify an alternative site, at coordinates North Latitude 43°-50'-33" and West Longitude 70°-45'-22".

II. THE COMMISSION SHOULD BASE WMTW'S DTV ALLOTMENT ON ITS PROPOSED MODIFIED FACILITIES BECAUSE ITS APPLICATION WAS TIMELY FILED AND BECAUSE OF THE INFEASIBILITY OF DTV OPERATION FROM ITS CURRENT SITE.

Holdings believes that its pending modification application, filed prior to July 25, 1996, should have been included in the NTSC database and taken into

1/ Holdings' application originally specified a site on Streaked Mountain, located at North Latitude 44°-15'-01" and West Longitude 70°-25'-27". Thereafter, on June 20, 1996 -- prior to the July 25, 1996 release date of the Sixth Further Notice -- the application was amended to specify the Bald Pate Mountain site.

consideration in the DTV allotment process. Holdings' application, as amended, is part of its long-term strategy both to rationalize WMTW's current NTSC operations and provide for the increased facilities necessitated by the conversion to DTV, while alleviating environmental and aesthetic concerns relating to the Station's operation at the summit of Mount Washington. Unfortunately, Holdings cannot undertake a study of the interference and other possible ramifications of the proposed relocation of WMTW's DTV facility until OET Bulletin No. 69 is made available. But the facts supporting reconsideration or modification of WMTW's DTV allotment, and the iniquity of failing to do so, are clear.

Several factors beyond Holdings' control militate in favor of designating an alternative site for construction of WMTW's digital transmission facilities. First, Holdings faces the realistic possibility that it will lose access to its current transmitter site shortly after the end of the DTV transition period. WMTW's transmitter is located on a parcel of land at the summit of Mount Washington that is owed by Dartmouth College, and leased from Dartmouth by Holdings. Dartmouth has sold adjoining properties formerly owned by it to the State of New Hampshire and has granted the State an option to purchase the remaining parcel, on which WMTW's facilities are located, upon the expiration of Holdings' lease in 2010.

Furthermore, aesthetic concerns have become an increasingly contentious issue with respect to various installations at the summit of Mount Washington. There has been growing sentiment by recreational users of the

mountain and environmental organizations, the Mount Washington Commission and various officials of the New Hampshire state government, that all structures should be removed from the mountain and that the summit should be allowed to revert to nature. At the very least, there has been increasing resistance to the siting of any new structures at the summit. As explained below, this issue would likely be implicated by the construction of a WMTW digital facility on Mount Washington.

WMTW currently has two towers at its Mount Washington site -- a main tower and antenna and a standby tower and antenna. In order to construct a DTV facility at the current site, either a new, third tower would have to be constructed, or the Station's existing standby tower would have to be refitted to accommodate the DTV facility. Under the latter plan, however, WMTW would have to function during the DTV transition period without a backup antenna for either its NTSC or its DTV service. Holdings believes this is not an acceptable scenario in view of the severity of the weather and inaccessibility of the Mount Washington site. Accordingly, a new tower and antenna array providing backup capability for the NTSC and DTV facilities would be required during the transition period.

A third factor weighing in favor of relocation of WMTW is the absence of electric service at the WMTW transmitter site. Power is generated at the Mount Washington summit by diesel-fired generators. Holdings currently is authorized by the Air Resources Division of the State of New Hampshire to operate twin diesel generator sets, only one of which is allowed on line at a time. Holdings estimates

that the addition of a DTV transmitter to WMTW's power load would result in a 44 percent increase over the Station's current power consumption, raising demand on the on-line generator to a level approaching its rated maximum capacity. Accordingly, Holdings believes the addition of digital facilities will necessitate replacement of WMTW's existing generating plant with larger units. This, in turn, would subject the facilities to a permitting process by the State of New Hampshire, the outcome of which is impossible to predict.

Fourth, and related to the issue of power generation, are the substantial difficulties associated with fuel storage at the Mount Washington site. WMTW's diesel generators are fueled by five 20,000 gallon tanks located at the summit. The tanks are filled during the three summer months at the summit and topped off just before winter. Based on WMTW's current annual fuel consumption (for both power generation and heating) of approximately 98,000 gallons, Holdings estimates that the operation of a DTV transmitter during the transition period would require more than 36,000 additional gallons of fuel per year, well beyond the capacity of the current tank system. Therefore, in order to avoid running out of fuel in the spring before the road to the summit is open to replenish the fuel tanks, additional fuel storage capabilities would have to be added to the WMTW site.

Specifically, on the basis of the projected fuel consumption discussed above, two additional 20,000 gallon tanks, piping, and an associated containment berm would be required. Construction of these facilities is a complex undertaking due to the physical size of the tanks and the associated structures. Furthermore,

construction costs on the summit are greater than similar construction elsewhere due to the hostile environment and limited accessibility. For the reasons noted above, it is likely that there would be public opposition to the expansion of the tank farm, and it is impossible to predict whether the construction would be approved. 2/

III. CONCLUSION

The factors discussed above make clear that both the long-term availability of the current Mount Washington site, and, over the near term, the feasibility of constructing and operating a DTV facility at the site, are in question. Under the circumstances, Holdings believes that its proposed alternative site for WMTW should be incorporated into the NTSC database upon which the final DTV Table of Allotments is based and the Station's DTV allotment modified accordingly to specify coordinates North Latitude 43°-50'-33" and West Longitude 70°-45'-22". Alternatively, Holdings respectfully requests that it be afforded a period of 90 days following the release of OET Bulletin No. 69 in which to request an alternative DTV allotment.

Holdings filed its modification application as a result of its concerns regarding the feasibility of WMTW's continued operation at the Mount Washington site. The application is unopposed and was filed well in advance of the July 25,

2/ In this regard, it should be noted that Holdings' fuel storage facilities previously have been the subject of U.S. Environmental Protection Agency scrutiny because of concern that they posed a risk of oil discharge into the Peabody, Ellis or Ammonoosuc Rivers. Holdings was required to prepare and implement a Spill Prevention and Control and Countermeasure Plan for the facilities.

1996 date that Holdings reasonably believed constituted the *de facto* cut-off date for consideration of modifications to NTSC facilities in the DTV allotment process.

Particularly in view of the additional questions that now have been raised regarding the feasibility of constructing a DTV facility at the Mount Washington site, modification of WMTW's DTV allotment as requested herein would serve the public interest in the prompt implementation of DTV service.

Respectfully submitted,

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